



FYI Sales 56

Sales Tax on Leases of Motor Vehicles and Other Tangible Personal Property

Leases are subject to the same sales taxes as sales of property. All information in this publication concerns state and state-collected taxes only. Home-rule self-administered jurisdictions have their own guidelines concerning tax on leases. Contact these jurisdictions directly. For detailed information about local sales rates in cities and, see Revenue Online, www.Colorado.gov/RevenueOnline, click the Business button see the publication Sales/Use Tax Rates (DR 1002).

A "Lessor" is defined as a leasing company, broker or dealership that prepares the lease and/or delivers the property to the lessee. A "Lessee" is defined as the person or company that leases the property.

TAX COLLECTION REQUIREMENTS ON LEASES

On leases of more than 36 months, the lessor must charge sales tax on the lease payments. The lessor must submit an application for a Permit to Collect Sales Tax on the Rental or Lease Basis (DR 0440) for each business location.

On leases of 36 months or less, the lessor may either pay the tax when purchasing items to be leased or may collect the tax from the customer through the lease payments. However, one method must be chosen and the lessor must use that method for each vehicle or property leased regardless of the duration of the lease contract. If the lessor chooses to collect the tax from the lessee, the lessor must obtain permission from the Department of Revenue. Submit an application for a Permit to Collect Sales Tax on the Rental or Lease Basis (DR 0440) for **each** business location. This permit is available at no charge and entitles the lessor to purchase the property without paying state or state-collected local sales tax on the purchases to be leased. [§39-26-713(1)(a) and §39-26-102(23), C.R.S.]

HOW ARE TAXES COLLECTED?

Motor Vehicle Leases

With all motor vehicle leases, the lessor must present the lessee with the Statement of Sales Tax Paid on Motor Vehicle Leases (DR 0026). This form shows which taxes are collected on the lease payments by the lessor and which taxes, if any, must be collected up front before the vehicle is registered or titled. The DR 0026 is required for all leases, except for short-term motor vehicle rentals (30 days or less) or wholesale leases.

On leases **more than** 36 months, the lessor must collect the state sales/use tax, the Regional Transportation District/Scientific and Cultural Facilities District (RTD/CD) taxes, and state administered local sales taxes, if applicable, on all lease payments. On leases of 36 months or less, the above applies if the lessor files a DR 0440. The lessor location is a factor in determining how **local** taxes should be imposed. If a dealer prepares the lease papers and the lessee obtains the vehicle from the dealer, then the location of the dealer is used as the lessor's location. If a leasing company prepares the lease papers, but the vehicle is obtained from a dealer, the location of the dealer is used as the location of the lessor. If a broker prepares the lease, the location of the broker is used as the location of the lessor.

The lessee location should also be considered. The address where the vehicle is to be garaged should be used as the lessee location.

If the locations of the lessor and lessee are in the same city or county jurisdiction, the lessor must collect all applicable city and county sales tax on the lease payments. The lessor will compute the collectible taxes by multiplying the total cost of the monthly lease payment by the applicable sales tax rate.

If the locations of the lessor and lessee are in different local jurisdictions, the lessor is not responsible for the collection of local use taxes of state-administered jurisdictions through the lease payments. If the lessee's jurisdiction imposes a use tax on motor vehicles, such use tax is collected in full from the lessee before the time of titling/registration. If the lessee's jurisdiction has no use tax on motor vehicles, then no local use tax is due.

The local use tax payable to the county clerk at the time of registration is calculated by subtracting the value of the vehicle when the lease expires (residual value) from the cost to the lessor at the time of the lease transaction (capitalized cost). This figure is then multiplied by the applicable use tax rate.

Example

\$25,000 Capitalized cost of the leased vehicle.

-5,000 Residual value of the vehicle.

\$20,000 Depreciated cost.

The depreciated cost figure is then multiplied by the applicable use tax rate.

Lease Vehicle Trade-Ins

In Colorado, a leased vehicle is registered in the name of the lessee in the care of the lessor at the lessee's address. However, the vehicle is not titled in the name of the lessee. The lessor retains ownership of the vehicle. The vehicle is not titled in an individual's name until the lessee purchases the vehicle. At the time the vehicle is purchased, the owner (formerly the lessee) has all the rights to ownership. The rights of ownership include selling the vehicle and using the trade-in allowance as a credit against another vehicle purchase or lease. A lessee has responsibilities similar to those of an owner such as insurance and registration, but he does not have the same rights of ownership. In order for the lessee to use the right to trade in the vehicle, the lessee must:

- purchase the vehicle;
- pay sales tax on the purchase price and;
- be the owner on the vehicle's title.

Equipment and Other Tangible Personal Property Leases

The major difference between taxes collected on motor vehicle leases and taxes collected on other tangible personal property leases is in the local tax collection requirement. In the case where city, county and special district taxes are collected by the state, local taxes are applicable **only** if the lessor has a form of business location in the same jurisdiction as the lessee. Any office, shop, warehouse, salesroom or the temporary but frequent presence of an employee for repair, sales or service purposes is a business location. If the lessor of tangible personal property does not have a business location in a city, county, or special district, no local tax is to be collected. In the case where there is no business location, no local tax should be collected even if the property is **delivered** within the boundaries of a local taxing entity. **NOTE:** RTD/CD taxes are applicable to the leases of all lessees residing within the district.

Exemptions

Leasing of machinery or machine tools used in manufacturing is sales tax exempt if the following conditions are met:

1. The lease period is more than three years, or full payment of the purchase price occurs before the period ends.
2. The lease must qualify for the investment tax credit, and that right must be passed to the lessee.
3. The minimum lease payments must total more than \$500 during the three-year period.
4. The machinery must be used in Colorado directly and predominantly (greater than 50 percent) in manufacturing.
5. Sales Tax Exemption on Purchases of Machinery and Machine Tools (DR 1191) is filed.

WHAT IS TAXABLE UNDER LEASE CONTRACTS?

When sales taxes are collected on the lease payments, all payments required to be paid by the lessee **pursuant to the lease contract** are sales taxable. These payments would include such things as warranties and property taxes, regardless of who receives the payments. All amounts paid to any party to obtain uninterrupted use of leased property are lease payments.

All taxes collected on the lease are based on the lessee's location for vehicles, or place of use for non-vehicles, when the lease was entered into and remain in effect until the lease ends. If the lessee moves to a different taxing jurisdiction, the taxes do not change to the new jurisdiction; they remain at the original rates and are subject to the taxes of the original jurisdiction.

If the lessee moves out of state, all Colorado taxes still apply. However, if the state into which the lessee moves requires, by its statutes, that its taxes be collected, then Colorado taxes are not required to be collected. Evidence of the other state's requirements must be supplied to the Colorado Department of Revenue, Business Tax Accounting, 1375 Sherman St., Room 208, Denver, CO 80261.

LICENSING REQUIREMENTS

If the lessor has a business location in Colorado and is required to collect sales taxes on lease payments, the lessor must obtain a sales tax license. If the lessor of tangible personal property other than motor vehicles has no business location in this state, a retailer's use tax license should be obtained and state and RTD/CD (if applicable) use taxes should be collected. [§39-26-102(3)(a), C.R.S.] Lessors of motor vehicles must always obtain a sales tax license.

Apply for a state sales tax license online at www.Colorado.gov/coloradobusinessexpress and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and mail in the Colorado Sales Tax/Withholding Account Application (CR 0100). You will receive your license and account number by mail. Allow four to six weeks for processing.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.